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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,977	06/25/2001	David Reshef	112221.00102	7051
27557	7590	12/30/2003	EXAMINER	
BLANK ROME LLP 600 NEW HAMPSHIRE AVENUE, N.W. WASHINGTON, DC 20037			NGUYEN, JUDY	
			ART UNIT	PAPER NUMBER
			2861	

DATE MAILED: 12/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/886,977	Applicant(s) RESHEF, DAVID	
	Examiner Judy Nguyen	Art Unit 2861	<i>ML</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-43 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

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DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the overlapping relationship recited in claims 26 and 35 must be shown or the features canceled from the claims.

No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 26-43 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it

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pertains, or with which it is most nearly connected, to make and/or use the invention.

Although the specification discloses in many instances regarding the overlapping relationship between the layers, the drawings do not illustrate any overlapping relationship. In addition, it is unclear how one can detect the object in the dark by having the second layer coated with a low emissivity coating while the pattern of the object is on the first layer. Why having the coating on the second layer make the pattern of the object on the first layer detectable? Hence, it is unclear how to make and/or use the invention as claimed.

Claims 26-43 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. The original specification does not disclose that the second layer can render the object visually detectable as recited. It appears that the object can be detected as recited because of the coating and the thermal signature cue of the object on the second layer, not by the second layer.

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive.

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Applicant stated, "Behind layer 1 is seen a second layer 2, which is continuous and its surface is large enough, that the pattern depicted on the first layer at least partly extends over the second layer and covers at least a part of the second layer" (page 2).

This statement does not make sense. How could the pattern depicted on the first layer extend over the second layer? The drawings show that the layers 1 and 2 having the same side. Hence, the pattern on the first layer 1 is even smaller than the second layer 2. Therefore, the pattern being smaller in size cannot extend over the larger second layer 2.

Applicant stated, "The situation, when the first and the second layer overlap can be seen also in Fig. 1b, which shows the target of the invention when it is ready for use. It is explicitly seen that the first layer is in overlapping relationship with the second layer" (page 2). The examiner has carefully examined Fig. 1b. It shows that there are three layers (1, 2, 3) in equal size stacked one on top of the others and aligned to each other. None of the layers is extended over the others.

Applicant stated, "Furthermore, Fig. 2 shows an embodiment of the target of the invention, in which the second layer is discontinuous" (page 2). This is contradicted with the previous statement where applicant indicated that the second layer 2 is continuous.

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Applicant stated, "the second layer is discontinuous and consists of three discrete regions designated by letters DR to depict a gun barrel and two tracks of a tank. These discrete regions, which constitute the second layer, are secured between the third and the first layer and although the first layer is not designated by a dedicated reference numeral, it can be readily appreciated that the first layer extends over the discrete regions, i.e. the first and the second layer is in overlapping relationship" (pages 2-3).

Although the first layer extends over the discrete regions, it cannot be equated as the first and the second layer being in overlapping relationship. The overlapping relationship is between the first layer and the discrete regions, not the second layer.

Applicant stated, "The Examiner contends that the drawings do not illustrate any overlapping relationship. As discussed above with respect to the Examiner's objection to the drawings, at least Figures 1 a, 1 b, 2, and 8b show a first layer in an overlapping relationship with a second layer" (page 3). The examiner maintains that drawings do not show the first layer being in an overlapping relationship with the second layer as discussed above with respect to the drawings objection.

Applicant stated, "The Examiner further questions how the object can be detected in the dark by having the second layer coated with low emissivity coating. As discussed in the specification, the second layer is made of thin polyester film and consists of discrete regions that are coated by a low emissivity coating. (See, page 10, lines 16-30). Due to this coating, the discrete regions of the second layer produce thermal radiation having

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an intensity that is lower than the radiation of the rest of the structure (which does not refer to the second layer and is not coated by the low emissivity coating). By virtue of this provision, a thermal contrast is created, which consists of discrete "cold" regions with low emissivity. In the infrared specter, the "cold" regions are detectable on a "hot" neighboring background" (page 4). The examiner noted, however, that specification (page 10, lines 25+) also discloses that the coated regions can be detected by thermal contrast, since the non-coated regions emanate more intense IR radiation, which passes through the meshes of the front layer. The question posted in the rejection is how one can detect the object in the dark by having the second layer coated with a low emissivity coating while the pattern of the object is on the first layer as recited in the claim 26. The claim does not include any feature regarding to the coated regions. In addition, since the pattern of the object is on first layer, which cover the openings of the mesh. How can intense IR radiation be able to pass through as recited in the specification?

Applicant stated, "the coated discrete regions of the second layer do not render detectable the pattern depicted, as the Examiner supposes. Rather, the pattern depicted on the first layer is detectable in visible specter, and not in the infrared specter. The coating, which coats the second layer, has nothing to do with the detection of the pattern carried by the first layer" (page 5). The examiner agrees. However, applicant recited in claim 26 that the second layer rendering the object visually detectable. Claim 26 previous recited that a pattern rendering the object visually detectable. This

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suggests that the pattern is the pattern of the object. This pattern of the object is on the first layer. Hence, it is unclear how the second layer can render the object on the first layer.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Judy Nguyen whose telephone number is (703) 305-7062. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ben Fuller can be reached on (703) 308-0079. The fax phone numbers for

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the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 305-3431 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Judy Nguyen
Primary Examiner
December 29, 2003